

Book Review: Chinese Law on SARS by Chenglin Liu

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## BOOK REVIEW

### *Chinese Law on SARS* by Chenglin Liu<sup>1</sup>

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Anyone studying the Chinese legal system must acknowledge two realities. The first is the dramatic rate of social and legal change in China. The second is the frequent inability of even the best foreign legal scholarship to stay current with those developments.

The pace of change in contemporary China is staggering. The physical transformation of the urban environment is perhaps the easiest change to comprehend because it is the most tangible. Foreign media outlets often report on these developments. These reports tell us, for example, that entire neighborhoods in Chinese cities have been leveled to make way for new construction or the new Three Gorges Dam. This dam, which is scheduled to raise the level of the Yangtze River by 130 feet when it is completed in 2009, will wipe out entire communities. Those dispatches evidence somewhat the great upheaval going on in Beijing, Shanghai, and other urban centers. Even good press coverage of China, however, typically conveys only a pale sense of the monumental building projects that are routinely brought to completion across the PRC.<sup>3</sup>

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<sup>3</sup> Beijing offers many examples of such projects in the last six years. The famed Third Ring Road, which once defined the limits for circumnavigating the

Changes to the Chinese legal system are more difficult for foreigners to appreciate than alterations of the physical environment, in part because they are less visible. These changes are also less frequently reported by the foreign press. Yet, in many respects, the legal developments in China are just as momentous, far-reaching, and fast-paced as the changes that are transforming the Chinese landscape. The law of China is being thoroughly reshaped in ways that often have the look, if not always the feel, of law in other countries. The Chinese government routinely uses legislation to craft solutions to pressing social problems, just as the American government does in the United States.

It is challenging for Westerners to access the current substantive rules of the Chinese legal regime or incisive scholarship about those standards. Due to recent developments, a book five-years-old which comments on some aspect of the Chinese legal system may be seriously misleading today. Complicating the publishing of current legal scholarship is the process of translation. Translating Chinese laws and assessing their merits takes time. Unfortunately, a significant lag-time often occurs between the headlines heralding the enactment of a new law in China and the scholarship which illuminates, for foreign audiences, the terms and application of the new provisions of that law.

Against this backdrop of unrelenting change and slow scholarly publication comes Chenglin Liu's *Chinese Law on SARS*. Liu's book is a marvelous example of fresh scholarship about a new and important feature of the Chinese legal system that has been promptly brought to market. The book analyzes the Chinese response to the Severe Acute Respiratory Syndrome (SARS) epidemic in 2003. Most notably, it examines the government's passing of two new laws<sup>4</sup>

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city, has been surpassed by the Fourth and Fifth Ring Roads, which are similar to U.S. interstate highways and the German autobahn. The recently empty fields and ponds west of the Haidian university district have become the home for an entirely new city, complete with scores of high rise buildings, wide boulevards, retail services, and an upscale underground shopping mall, offering a full range of amenities, including Olympic-style swimming. The dowdy 1950's Beijing airport, presumably constructed under the guidance of Soviet advisors, has been replaced by a mammoth new air terminal comparable to any in the world—and that is only one of many new airports across the country. In addition, an astounding combination of new academic buildings, athletic complexes, and landscaping has transformed the once factory-like ambience of major Beijing universities into campuses with architectural sparkle.

<sup>4</sup> REGULATIONS DEALING WITH THE OUTBREAK OF PUBLIC HEALTH

and the implementation of other legal steps to bolster the nation's public health system.

The book's first two chapters are devoted to explaining the facts that signaled the beginning of the SARS epidemic. Liu traces the emergence of the disease in Guangdong province and its later spread to Hong Kong, Beijing, and beyond. These chapters highlight just how quickly the Chinese government was called upon to respond to a medical emergency of unknown dimensions, but of potentially great magnitude. In the third chapter, Liu then explains why structural, bureaucratic, and ideological obstacles made it difficult for the government to move promptly and effectively to stem the SARS epidemic or deal with the problem honestly during the initial stages of the crisis. To illustrate these points, Liu outlines the structure and responsibilities of the relevant state institutions (*e.g.*, the State Council, the Central Military Commission, the Ministry of Health, and the national academies of science and engineering). He clarifies their roles in addressing the SARS crisis, as well as the influence on official decisions that is routinely exerted by the Chinese Communist Party. Liu then explains why the hierarchical organization of the central and local governments impeded the lateral flow of information to medical personnel involved in the treatment of SARS patients. He shows how the government's handling of press coverage misled the public, the medical profession, and observers in other countries about the nature and severity of the epidemic.

One of the complicating factors in dealing with SARS epidemic, according to Liu, was the fact that acceleration of the disease coincided with the election of a new central government. Those in charge of orchestrating the transfer of power were intent on avoiding any suggestion that the country was in crisis. Accordingly, information relating to the spread of the epidemic was strictly controlled. As a result, the public was denied accurate information that might have been used for self-protection and for aiding medical personnel in the treatment of the disease.

To its credit, the new central government moved swiftly to deal with the SARS problem. Chapter four of the book explains the numerous steps that were taken to bring SARS under control. Symbolically, high government officials were sacked and a new team

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EMERGENCIES (effective May 12, 2003) and MEASURES ON THE PREVENTION AND TREATMENT OF INFECTIOUS ATYPICAL PNEUMONIA (SEVERE ACUTE RESPIRATORY SYNDROME, OR SARS) (effective May 12, 2003).

was brought in to lead the fight against SARS. Substantively, a detailed legal regime was created to establish an effective epidemic reporting system and to facilitate the quarantining and treatment of persons who had, or were suspected of having, the disease.

In chapter five, Liu offers a detailed overview of the new SARS laws. He explains their scope and limitations, as well as their interplay with existing Chinese legal regulations.

Liu's work is the first book in English to focus on the new SARS laws. The volume has many virtues, but four in particular should be noted. First, the book offers an accurate and balanced description of the new SARS laws, and an assessment of how those rules mesh with existing provisions relating to public health practices and criminal liability. Second, *Chinese Law on SARS* includes eight appendices that provide exact translations of the new SARS laws and related legal enactments. These translations, prepared by Liu, make the book considerably more valuable than if it had merely summarized the new SARS regime. The translations will be of continuing use to Chinese law scholars for years to come.

Third, the book's narrative tale of how the SARS epidemic developed in China, and how the government responded, provides a vivid snapshot of life in contemporary China. The tale amplifies the human drama of the crisis. These chapters make for excellent reading and are a poignant reminder of how the SARS epidemic caused panic in the world's most populous nation and anxiety around the globe.

Finally, Liu offers a thoughtful critique of the strengths and weaknesses of the new SARS laws. The analysis is fair and professional. There is no effort to promote any ideological view about the Chinese government or to reduce the new legislation to the status of just another example that proves some larger politico-legal theory. Rather, the laws are considered on their merits in lawyerly fashion, with careful attention to the language of the new laws and perceptive legal analysis. Educated in China, Sweden, and the United States, Liu is in a good position to offer a broadly informed perspective on the new SARS laws. His book lives up to those expectations.

It is impossible to know whether the SARS disease will continue to be an issue of concern in China and around the world. However, other epidemics will certainly pose similar threats to public health and social stability. Liu's scholarly examination of the SARS legislation is instructive not merely because it explains the current laws in China relating to SARS. Rather, it is also important because it

offers insight into what a country should (and should not) do when faced with the problem of an unprecedented, deadly, and potentially devastating threat to public health.

*Chinese Law on SARS* is a valuable addition to English-language literature about the Chinese legal system. It deserves to be read, considered, and debated.